UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
MOORTHY, ARAVIND K

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/688,012	AGUIRRE, MIKEL URIZARBARRENA
	Examiner	Art Unit	
	Aravind K. Moorthy	2131	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *21 February 2008*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-38 and 40-45* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-38 and 40-45* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *17 October 2003* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1. This is in response to the amendment on 21 February 2008.

2. Claims 1-38 and 40-45 are pending in the application.

3. Claims 1-38 and 40-45 have been rejected.

4. Claim 39 has been cancelled.

Response to Amendment

5. The examiner approves of the amendment made to claims 1 and 10. The applicant has removed the expression "most active" from the claims. The examiner withdraws the rejection under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has cancelled claim 39. Since the claim has been cancelled, there are no issues regarding 35 U.S.C. 112, second paragraph.

Response to Arguments

6. Applicant's arguments with respect to claims 1-38 and 40-45 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-38 and 40-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said user" in the claim. There is insufficient antecedent

basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8.   Claims 1-31, 33-38 and 40-45 are rejected under 35 U.S.C. 102(e) as being anticipated by

Parish et al U.S. Patent No. 7,310,818 B1 (hereinafter Parish).

As to claim 1, Parish discloses a computer implemented method providing software

viruses infection information in real time, the method comprising following steps:

a) providing a computer virus utility program to a plurality of users

distributed around different locations each of them operating at least one local

computer (i.e. Parish discloses that computer 24 includes or has access to a virus

scanning application such as McAfee's VSHIELD, ACTIVESHIELD, SCAN

NOW or VIRUSSCAN brand programs, or anti-virus applications described in

U.S. Pat. No. 6,029,256, issued Feb. 22, 2000 or U.S. Pat. No. 6,035,423 issued

Mar. 7, 2000, which are incorporated herein by reference in their entirety, or any

other suitable anti-virus program. The virus scanning application preferably

contains an update agent which is resident in the background of the computer

system and polls for updates at a set interval) [column 5, lines 5-13];

b) obtaining information about geographical location of each of the local computers (i.e. Parish discloses the top ten viruses are also reported for different time periods and geographic locations. The present invention allows users to collect information on the prevalence, commonality, and locations of specific viruses. The examples below show the data presented in the form of a virus map, however, it is to be understood that the data may be presented in other formats (e.g., tables, graphs, charts), without departing from the scope of the invention) [column 4, lines 34-38];

c) carrying out, using the computer virus utility program, in response to a petition of the user, at least a computer virus search or scanning operation covering at least a part of at least one hard disk of the local computer or at least a part of a unit supporting information connected or connectable to the local computer (i.e. Parish discloses the virus scanning application may be installed on the user computer 24 by a disk or CD-ROM, or downloaded directly from the Internet, for example. The virus scanning application may also be accessed through an anti-virus web site that is configured to scan a remote computer without installing the virus scanning application locally. It is to be understood that the virus scanning may be performed on a system different than the one described herein without departing from the scope of the invention)[column 5, lines 19-25];

d) issuing a report containing the results of the computer virus search or scanning operation on the local computer including information about detected computer viruses and making available the results of the report through a

communication network along with at least data of the geographical location of the local computer, to a center (i.e. Parish discloses the results of the virus scans are sent from user computers 24 to system 20. The scan results may be collected at the same web server that is used to scan computer 24 or the computer may be configured to automatically report the results of the virus scanning if a local virus scan is performed. A user may, for example, subscribe to a program offered on an anti-virus web site that allows it to use its scanning software in return for use of data collected during virus scanning operations. The computer 24 may also perform a virus scan operation using an application installed on its hard drive and connect to the Internet and send a report containing the results of the scan after each virus scan operation or whenever the computer is in communication with the web site collecting the data) [column 5, lines 27-39];

e) processing at the center a plurality of reports received from different local computers and allocating the detected computer viruses in geographical areas [column 5, lines 27-39]; and

f) making available information about the spread of at least one of the computer viruses at a given time in a series of selectable geographical areas corresponding to the different locations of step a) (i.e. Parish discloses The virus map may include, for example, statistics for 165 countries and be configured for interactive use (e.g., allow a user to zoom in or pan out on specific geographic areas, or point to and click on a specific country in the map and have statistics pop-up). Data is preferably collected 24 hours a day, seven days a week. The data

may be aggregated every twenty minutes, for example, to provide near real time

data on the relative prevalence of viruses worldwide) [column 9, lines 51-58].

As to claim 2, Parish discloses that the step a) of providing the computer virus utility

program is carried out on line or off line (i.e. Parish discloses that the computer virus utility

program is carried out online) [column 5, lines 19-25].

As to claim 3, Parish discloses that the steps a) and b) are performed sequentially at any

given order [column 5, lines 19-39].

As to claim 4, Parish discloses that the computer virus utility program is anti-virus

software (i.e. Parish discloses that computer 24 includes or has access to a virus scanning

application such as McAfee's VSHIELD, ACTIVESHIELD, SCAN NOW or VIRUSSCAN

brand programs) [column 5, lines 5-13].

As to claim 5, Parish discloses that if any computer virus is detected a virus cleaning and

file and system repair operation is performed at least on a scanned part of the computer providing

the detection (i.e. Parish discloses that McAfee's VSHIELD is capable of cleaning) [column 2,

lines 43-46].

As to claim 6, Parish discloses that the information made available at step f) is

periodically updated [0355-0357].

As to claim 7, Parish discloses that the information provided at step f) is made available

to any user of a computer through a communication network (i.e. Parish discloses that data is

preferably collected 24 hours a day, seven days a week. The data may be aggregated every

twenty minutes, for example, to provide near real time data on the relative prevalence of viruses

worldwide) [column 9, lines 51-58].

As to claim 8, Parish discloses that the information provided at the step d) further includes the number of times that a detected virus appears in the computer detection operation of step c) [0142-0143].

As to claim 9, Parish discloses that the information provided at the step f) further includes the percentage of infected computers at a selected geographical area (i.e. figure 9 shows a view with the select map pull down menu replaced with a top ten list of viruses) [column 9, lines 51-58].

As to claim 10, Parish discloses that the information provided at the step f) further includes a trend of spread of some of the detected computer virus at any given geographical area during an immediate preceding period of time [column 9, lines 51-58].

As to claim 11, Parish discloses that the computer virus search or scanning operation of step c) is performed after a request of permission to the user (i.e. When one of the subscriber servers 30 receives a request for a virus map (step 114), it compares the date and time of the LastUpdate table and if it is different from the Current Date/Time it uses the new virus data to update the map (steps 116 and 118). FIGS. 4, 5, 6a, 6b, 7a, 7b, 7c, and 7d illustrate additional details of the process shown in FIG. 3.) [column 8, lines 1-26].

As to claim 12, Parish discloses that the report issued at step d), also includes a definite time when the at least a computer virus search or scanning operation is performed (FIG. 5 illustrates details of the process for aggregating scan results by country. At step 150 a date and time are calculated by subtracting 24 hours from the Current Date /Time. This is also done to calculate a new date and time by subtracting 7 days from the Current Date /Time and a new date time by subtracting 30 days from the Current Date /Time (steps 152 and 154). Next, all entries

from the Viruses_by_country table and Viruses_by_continent table are deleted (steps 156 and 158)) [column 8, lines 42-58].

As to claim 13, Parish discloses that the making available the result of the report at step d) to a center is done preserving anonymity of the user [column 9, lines 51-58].

As to claim 14, Parish discloses that the step c) is performed on the whole of the at least one hard disk or on the whole of all hard disks of the local computer that can be selected by the user (In the example shown in FIG. 1, user computers 22 are used to access the virus map and user computers 24 are used to report viruses identified during virus scanning. It is to be understood that the same computers may be configured to report virus scan results and access the virus maps and any number of computers may be used to report virus scan results and view the virus map and associated data. The user computers 22, 24 may be a stand-alone desktop computer, laptop computer or a handheld device (e.g., personal digital assistant (PDA) or mobile phone), for example. The computers 22, 24 may be client computers coupled to an Internet service provider over a SLIP (Serial Line Interface Protocol) or PPP (Point to Point Protocol) connection. The Internet service provider is, in turn, coupled to the Internet, the client computer thereby having the ability to send and receive information to other nodes on the Internet using a TCP/IP protocol (Transmission Control Protocol/Internet Protocol) [column 4 line 53 to column 5 line 2].

As to claim 15, Parish discloses that the step c) is performed on an area interchanging messages of the local computer [column 5, lines 26-39].

As to claim 16, Parish discloses that the step c) is carried out on one or more files of the local computer [column 5, lines 19-25].

As to claim 17, Parish discloses that the step c) also includes an heuristic exploration of the local computer in order to detect some files suspected to be infected, the results being also included as suspected files in the issued report [column 6, lines 32-46].

As to claim 18, Parish discloses that the report issued at step d) further includes the definite time at which the report issued at step d) was sent by the center [column 8, lines 42-58].

As to claim 19, Parish discloses that the report issued at step d) further includes the definite time at which the virus search or scanning operation ended [column 8, lines 42-58].

As to claim 20, Parish discloses that the step e) further includes evaluate for each of the geographical areas the number, name and degree of spreading of detected computer viruses or files and number of them suspected to be infected [column 8, lines 27-41].

As to claim 21, Parish discloses that the plurality of local computers are distributed around a wide geographical area [column 9, lines 51-67].

As to claim 22, Parish discloses that the plurality of local computers are distributed around the world [column 9, lines 51-67].

As to claim 23, Parish discloses that the communication network is a global network such as the Internet [column 5, lines 51-62].

As to claim 24, Parish discloses that the communication network is a particular network such as a large company network [column 9, lines 51-67].

As to claim 25, Parish discloses that the computer virus search or scanning operation of step c) comprises removing the detected computer virus from an infected file or files so that the file can be used again (i.e. Parish discloses that McAfee's VSHIELD is capable of cleaning) [column 2, lines 43-46].

As to claim 26, Parish discloses that the computer virus search or scanning operation of step c) comprises quarantining the infected file or files [column 5, lines 3-25].

As to claim 27, Parish discloses that the computer search or scanning operation of step c) comprises repair the adverse effects of the computer virus in the infected computer [column 2, lines 43-46].

As to claim 28, Parish discloses that the computer virus search or scanning operation of step c) comprises remove an infected file or files [column 9, lines 18-19].

As to claim 29, Parish discloses that the computer virus utility program is periodically updated including special anti-virus tools to fight against reported new active computer virus detected [column 5, lines 3-25].

As to claim 30, Parish discloses that the computer virus utility program loaded in the local computers includes a communication program [column 5, lines 3-25].

As to claim 31, Parish discloses that the issued reports are being sent using the communication program [column 5, lines 26-39].

As to claim 33, Parish discloses that the issued reports include in addition to the number and name of computer virus found, the number and kind of files infected [see figures 10-12].

As to claim 34, Parish discloses that the periodically updated information of step f) is renewed and issued as soon as new batches of reports from any particular geographical area are processed by the center at step e) (The publisher database server 34 includes an aggregation application configured to aggregate the virus scan results at scheduled intervals (e.g., less than one hour or less than thirty minutes). When the aggregation is complete a virus database (e.g., a one-row table) is updated with the `last update date` and the data is replicated out to the

subscriber servers 30 to create virus database within the subscriber server. The virus map application monitors this virus database, and when it changes, it invalidates all of the data layers of the virus map. When a user requests a data layer to view, the virus map application first checks to see if it is valid. If the data is invalid, it gets new data from the subscriber server database. This results in the data only being loaded for use by the virus map application when it is needed. Once loaded, it is cached until it becomes invalid) [column 6, lines 32-46].

As to claim 35, Parish discloses that the periodically updated information of step f) is renewed each predetermined period of time [column 5, lines 27-39].

As to claim 36, Parish discloses that the process of step e) at the center includes statistic operations of the data from the plurality of issued reports received [column 9, lines 51-55].

As to claim 37, Parish discloses that the information of the step f) is provided from a Website [column 5, lines 3-25].

As to claim 38, Parish discloses that the Website is a site further providing anti-virus tools for the users [column 5, lines 5-13].

As to claim 40, Parish discloses that a Web browser is used to reach the Website in order to obtain the information or to download a computer virus utility program [column 5, lines 26-39].

As to claim 41, Parish discloses that a special software utility program is used to reach the Website in order to obtain the information [column 5, lines 26-39].

As to claim 42, Parish discloses that the on line provision involves downloading a computer virus utility program from a site of a remote provider [column 5, lines 5-13].

As to claim 43, Parish discloses that the downloaded computer virus utility program resides only temporally in the local computers [column 5, lines 5-13].

As to claim 44, Parish discloses that the downloaded computer virus utility program resides permanently in the local computers [column 5, lines 5-13].

As to claim 45, Parish discloses that the issuing a report at sep 3) is done after prompting a petition to the user of the local computer and obtaining an authorization to send the issued report [column 5, lines 51-62].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parish et al U.S. Patent No. 7,310,818 B1 (hereinafter Parish) as applied to claim 1 above, and further in view of Rogers et al US 2002/0083334 A1 (hereinafter Rogers).

As to claim 32, Parish discloses the geographical location of the local computers, as discussed above.

Parish does not teach that information about the computer operating system of the local computers is included in the issued reports of step d).

Rogers teaches obtaining information about a computer's operating system during a virus scan [0018].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Parish so that information about the computer operation system would have been included in the issued reports.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Parish by the teaching of Rogers because it is well known that certain operating systems are vulnerable to certain attacks and viruses so to know the operating system it will make is easier to determine that viruses that might attack it [0008].

Conclusion

10.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.   Accordingly, **THIS ACTION IS MADE FINAL**.   See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K. Moorthy whose telephone number is 571-272-3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aravind K Moorthy/
Examiner, Art Unit 2131

/Ayaz R. Sheikh/

Supervisory Patent Examiner, Art Unit 2131